IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1077 OF 2006,
CRIMINAL WRIT PETITION NO.1078 OF 2006,
CRIMINAL WRIT PETITION NO.1079 OF 2006
AND
CRIMINAL WRIT PETITION NO.1080 OF 2006

Shri Shrenikkumar Jambukumar Shah ...Petitioner
(In all Petitions)

Vs.

Prasanna Vijaykumar Shah & Anr. ...Respondents
(In all Petitions)

Shri Machindra Deshmukh holding for Shri Milind Deshmukh for the Petitioner in all Petitions.

Shri S.R.Shinde, A.P.P. for the State in all Petitions.

CORAM : A. S. OKA, J.
DATE : OCTOBER 03, 2006.

P.C.:

1. Heard the learned Advocate appearing for the Petitioner. As facts of these four Petitions are more or less identical, reference is made to the facts in Criminal Writ Petition No.1077 of 2006. The challenge in this Petition under Article 227 of the Constitution of India is to an order passed on 11th October, 2005 by the learned 2nd Additional Sessions Judge, Baramati in Revision Application filed by the first Respondent. By the said order, the first Respondent is given custody of TVS Victor motorcycle subject to execution of bond in the sum of Rs.50,000/- on condition that he will

produce the vehicle in the court as and when he will be directed to produce the vehicle.

2. The Petitioner is a dealer of motorcycles of TVS Make. The Petitioner is the complainant in a private complaint filed against the first Respondent as well as against one Dattatraya Lawate. The said Dattatraya is arraigned as the accused No.1 in the said complaint. According to the case of the Petitioner, the said Dattatraya was not his authorised sub-dealer. However, he used to bring prospective customers and show the motorcycles to prospective customers. The case of the Petitioner is that the said Dattatraya sold a TVS motorcycle to the first Respondent herein. The allegation is that the said Dattatraya did not deposit the price of the vehicle which was recovered by him from the first Respondent. In the private complaint field by the Petitioner alleging the commission of offence under section 420 read with section 34 of the Indian Penal Code, the learned Magistrate passed an order under section 156(3) of the Code of Criminal Procedure, 1973. During the investigation, the police seized the motorcycle in question from the first Respondent.

3. The Petitioner as well as the first Respondent filed separate Applications in the private complaint seeking interim custody of the motorcycle. The learned Magistrate rejected both the Applications. Being aggrieved by rejection of the said Application both the Petitioner and the first Respondent filed revision Applications. By the impugned order, the revision Application preferred by the Petitioner has been dismissed and the revision Application filed by the first Respondent has been allowed by directing the police to handover the custody of the vehicle to the first Respondent on the terms and conditions mentioned in the order.

4. The learned Advocate for the Petitioner submitted that the Petitioner being the legal owner of the motorcycle was entitled to interim custody thereof. Being the legal owner he will have to face consequences in case the first Respondent misuses the vehicle. He submitted that custody of the vehicle could not have been given to the first Respondent.

5. I have considered the submissions. The learned Revisional Court has relied upon receipt produced by the first Respondent showing that entire price of the

motorcycle being sum of Rs.44,550/- has been paid to the accused No.1 Dattatraya. The vehicle was seized when it was in the custody of the first Respondent.

6. The learned Revisional Court has observed that there is a civil dispute between the Petitioner and the accused No.1 Dattatraya regarding the payment of price of the vehicle which was sold to the first Respondent. Considering the fact that the first Respondent had purchased the motorcycle by paying consideration to the accused No.1 Dattatraya, the learned Additional Sessions Judge has directed the police to handover the custody of the vehicle to the first Respondent. Conditions have been imposed by the impugned order as regards execution of bond in the sum of Rs.50,000/- by the first Respondent. The conditions which are imposed by the impugned order sufficiently protect the interests of the Petitioner. In the circumstances, no case is made out for interference.

7. Writ Petitions are rejected.

JUDGE